

REMARKS

United States Serial No. 10/571,728 was filed on November 8, 2006. Claims 1-20 are currently pending in the present application. Applicant respectfully requests reconsideration and allowance of claims 1-3, 5-19 and 21.

35 U.S.C. § 112

Claims 1-20 have been rejected under 35 U.S.C. § 112, first paragraph. The Office has alleged that the claims “are not commensurate with an enabling disclosure because applicants do not have support for *any* lithium salt. Paragraph [0037] of applicants’ specification requires that the lithium salt to be used in the present invention may be any one of lithium hydroxide, lithium carbonate, and lithium sulfate, or combinations thereof--.”

Without concurring with the Office’s allegations, claim 1 has been amended in order to recite, in pertinent part, “wherein the one or more kinds of lithium salts are at least one of lithium hydroxide, lithium carbonate, or lithium sulfate”. Claim 20 has been canceled. Applicants respectfully submit that claims 1-3 and 5-19 are commensurate in scope with the present specification, and request that this rejection be withdrawn.

35 U.S.C. §§ 102 and 103

Claims 1-20 have been rejected under 35 U.S.C. §§ 102(b) and (e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over, U.S. Patent No. 7,198,669 B2 to Angelskaar, et al. (the “669 patent”), U.S. Patent No. 7,182,808 B2 to Angelskaar, et al. (the “808 patent”), WO 2006/074739 A1 to Angelskaar, et al. (the “739 application”), U.S. Patent Application Publication No. 2007/0056473 A1 to Nakashima, et al. (the “473 application”), U.S. Patent Application Publication No. 2007/0054059 A1 to Nakashima, et al. (the “059 application”), the abstract of JP 2004-035387 A to Angelskaar, et al. (the “Japanese abstract”), or the abstract of WO 2005/040059 to Maltese, et al. (“Maltese”).

Preliminarily, Applicant respectfully submits that the Japanese abstract does not qualify as prior art under 35 U.S.C. § 102(b), as alleged by the Office. MPEP § 1893.03(b) states that “[a]n international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application.” Therefore, the effective filing date of the present application for purposes of § 102(b) is the international filing date: August 18, 2004.

MPEP § 706.02(a)(II) states that “[i]f the publication or issue date of the reference is more than 1 year prior to the effective filing date of the application (MPEP § 706.02), the reference qualifies as prior art under 35 U.S.C. 102(b).” The Japanese abstract was published on February 5, 2004, which is less than one year prior to the effective filing date of the present Application. Applicant therefore respectfully submits that the Japanese abstract does not qualify as prior art under § 102(b) with respect to the present application.

Applicant respectfully submits that the date of invention for purposes of § 102(e) of the present application is at least as early as August 18, 2004, which is the international filing date of the present application. Applicant respectfully submits that the ‘739 application does not qualify as prior art under § 102(e). In order for an international application to qualify as prior art under § 102(e), the application must designate the U.S. A review of the cover of the ‘739 application reveals that the U.S. is not listed as a designated state. Also, the filing date of the ‘739 application, November 11, 2005, is after the date of invention of the present application, which is at least as early as August 18, 2004, the international filing date. Therefore, Applicant respectfully submits that the ‘739 application does not qualify as prior art with respect to the present application.

Further, Applicant respectfully submits that the ‘473 application, the ‘059 application, and Maltese do not qualify as prior art with respect to the present application. All three of these documents were filed after the date of invention of the present application, which is at least as early as August 18, 2004, the international filing date.

In summary, the only documents cited by the Office which have relevant dates which are before the international filing date of the present application are the '669 patent, the '808 patent, and the Japanese abstract. However, the priority date of the present application, September 19, 2003, which establishes an earlier date of invention than the international filing date for the present application, is prior to the relevant dates with respect to the '808 patent and the Japanese abstract. Thus, the '808 patent and the Japanese abstract are not prior art with respect to the present claims.

Claims 1 and 11 have been amended to recite, in pertinent part, "wherein the ratio A/S of the number of moles of Al_2O_3 (A) to the number of moles of SO_3 (S) in the liquid accelerator is 0.35 to 0.55." Claim 4 has been canceled without prejudice. Support for these amendments can be found in paragraph [0039] of the present specification. (Claims 2 and 8 have been amended to correct typographical errors; no new matter has been added.) None of the '669 patent, the '808 patent, or the Japanese abstract, alone or in combination, teach or suggest this recited feature. Applicant therefore respectfully requests that the rejections of claims 1-20 be withdrawn.

Claim 21 has been added. Support for claim 21 can be found in paragraphs [0037] through [0039] of the present specification. As supported by paragraphs [0037] and [0038], claim 21 further defines the lithium salt as providing a content of lithium ions in the liquid accelerator in the range of 0.01 to 1.0% by mass of cement in a mortar or concrete composition into which the liquid accelerator is to be added. Paragraph [0039] is directed to the ratio A/S as recited in claim 21. Since claim 21 incorporates the recitation of "wherein the ratio A/S of the number of moles of Al_2O_3 (A) to the number of moles of SO_3 (S) in the liquid accelerator is 0.35 to 0.55", it is respectfully submitted that claim 21 is not taught or suggested by any of the above references.

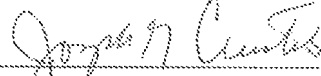
In view of the amendments and remarks set forth herein, Applicant respectfully requests that the 35 U.S.C. §§ 102, 103 and 112 rejections of claims 1-20 be withdrawn and that a formal Notice of Allowance be issued with respect to claims 1-3, 5-19 and 21.

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Should there be any questions regarding the above amendments or remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,



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